

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ADAMARY RIOS,

Plaintiff,

Dock. No.
25-cv-00158-NRM-ARL

-VS-

ANSWER

PAMELA REST. CORP. d/b/a WILLY'S MARGARITA'S
CAFE, MARGARITA'S CAFE VII INC. d/b/a WILLY'S
MARGARITA'S CAFE, ABC CORP. 1-10 d/b/a WILLY'S
MARGARITA'S CAFE, and WILLIAM MARTINEZ,

Defendants,

-----X

ANSWER

Defendants PAMELA REST. CORP. d/b/a WILLY'S MARGARITA'S CAFE,
MARGARITA'S CAFE VII INC. d/b/a WILLY'S MARGARITA'S CAFE, ABC CORP. 1-10
d/b/a WILLY'S MARGARITA'S CAFE, and WILLIAM MARTINEZ, (collectively,
"Defendants"), by their attorneys Silverberg P.C., for their answer to plaintiff ADAMARY
RIOS's complaint, responds as follows:

1. Defendants admit the truth of the allegations asserted in paragraphs 6, 8, 10, 12, and 64 of the complaint.
2. Defendants admit the truth of the allegations asserted in paragraphs 31, 32, 114, and 115 of the complaint, and state that Defendants properly paid plaintiff.
3. Defendants lacks knowledge and information sufficient to form a belief as to the truth of the allegations, and therefore denies the allegations, asserted in paragraphs 4 and 67 of the complaint.

4. Defendants deny the truth of the allegations asserted in paragraphs 1, 7, 11, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 62, 65, 66, 69, 70, 71, 72, 73, 74, 75, 77, 78, 79, 80, 82, 83, 84, 85, 87, 88, 89, 90, 92, 93, 94, 97, 98, 99, 100, 102, 103, 104, 107, 108, 109, 111, 112, 116, 117, 118, 120, 121, 123, 124, 126, 127, 128, 129, and 130 of the complaint.

5. Defendants deny the truth of the allegations asserted in paragraph 2, 3, 5 9, 13, 17, 96, and 106 of the complaint, and assert that the law speaks for itself.

6. Defendants deny the truth of the allegations asserted in paragraph 60, 61, 63, and 68 of the complaint, and assert that any statement proven to be true speak for itself.

7. No response is necessary for paragraphs 76, 81, 86, 91, 95, 101, 105, 110, 113, 119, 122, and 125, and deny such.

AS AND FOR THE FIRST AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim upon which relief can be granted. One or more defendants, if not all defendants, are not employers. Any violations, should a violation be found, was not willful, and was based on a good faith interpretation of the law. Liquidated damages do not comport with New York and federal constitution and would be unconstitutionally excessive. Plaintiff seeks duplicative relief under federal law and New York Labor law.

AS AND FOR THE SECOND AFFIRMATIVE DEFENSE

Plaintiff has failed to state a claim for which relief can be granted by virtue of estoppel, laches, waiver, and/or unclean hands. To the extent that plaintiff executed a waiver and general release agreement, then plaintiff's claims are barred.

AS AND FOR THE THIRD AFFIRMATIVE DEFENSE

Any damages sustained by the Plaintiff were occasioned in whole or in part by Plaintiff's own errors, breach of contract, neglect and/or omissions.

AS AND FOR THE FOURTH AFFIRMATIVE DEFENSE

Plaintiff has failed to mitigate her damages.

AS AND FOR THE FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims fail based on res judicata.

AS AND FOR THE SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims fail based on statute of frauds.

AS AND FOR THE SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims fail based on statute of limitations.

AS AND FOR THE EIGHTH AFFIRMATIVE DEFENSE

Plaintiff's claims fail because the claims are premature.

WHEREFORE, Defendants respectfully requests that this Court enter judgment as follows:

- (a) Dismissing the Plaintiff's complaint; and,
- (b) Such other and further relief as this Court may deem proper.

Jury Demand

Defendants request trial by jury.

[Intentionally Blank]

Dated: July 29, 2025
Central Islip, New York

Silverberg P.C.
Attorneys for Defendants

By: ____/s/ Karl Silverberg ____
Karl Silverberg, Esq.

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